

IN THE UNITED STATES DISTRICT COURT RECEIVED
DISTRICT OF SOUTH CAROLINA USDC CLERK, CHARLESTON, SC
AIKEN DIVISION 2013 MAY 29 P 1:18

Eric Andrew Rieb, # 289509,)
Petitioner,) No. 1:09-cv-2642-RMG
vs.)
Robert M. Stevenson, III,) ORDER
Respondent.)

)

Petitioner Eric Andrew Rieb has filed a motion seeking to compel “the mail room of the Broad River Correctional Institution (‘Broad River’), Columbia, SC, to produce copies of ‘legally privileged/certified delivery log’ sheets” from April 10, 2011 until May 20, 2011. (Dkt. No. 118). Petitioner asserts that a lockdown at Broad River delayed by two weeks his receipt of the Court’s order denying his motion for relief from judgment, and therefore caused him to miss his appeal deadline. (*Id.*). He seeks the mail log because he believes it will provide an “evidentiary basis” for a subsequent request to allow his otherwise untimely appeal.

The Court would, however, decline to reopen the appeal period under Federal Rule of Appellate Procedure 4(a)(6) because this motion is filed more than 180 days after the orders in question were entered. *See Fed. R. App. P. 4(a)(6)(B).* Further, the Court would decline to extend the time to file a notice of appeal because Petitioner has not shown the “excusable neglect or good cause” necessary under Federal Rule of Appellate Procedure 4(a)(5). *See Fed. R. App. P. 4(a)(5)(A)(ii).* As Petitioner himself put it, though he requested the mail logs from prison staff on December 5, 2011, he “hasn’t diligently followed this up” for more than a year now. (Dkt. No. 118

at 3).

Thus, even if Petitioner were to receive the mail logs he requests, and to demonstrate the delay he claims occurred, he would not be able to obtain an order from this Court that would extend his appeal period or reopen his appeal. This makes his request for production of the mail logs futile. Accordingly, the Court DENIES Petitioner's motion.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Judge

Charleston, South Carolina
May 27, 2013